



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 29, 2015, under Wis. Stat. § 49.497(1m)(a), to review a decision by the Dane County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 15, 2015.

The issue for determination is whether it was proper to issue an *Order To Compel Payment of Liability* against petitioner.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

BY: [REDACTED], Overpayment Specialist  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County, Wisconsin.

- [REDACTED]
2. Petitioner was sent a notice via U.S. Mail; the notice was dated September 30, 2015 and entitled *Notice Of Administrative Action*; enclosed with the notice was an *Order to Compel Payment of Liability* and an *Affidavit of Collector* both also dated September 30, 2015; all of this concerned the following 2 MA overpayment Claims established against petitioner in the total amount of \$1,962.00 covering the time period February 1, 2014 to October 31, 2014:
    - (I) 0900418960; February 1, 2014 to April 30, 2014; \$643.00; and,
    - (II) 2900418962; May 1, 2014 to October 31, 2014; \$1,319.00.
  3. Petitioner requested a Hearing by a handwritten letter dated October 7, 2015 received by the Division of Hearings and Appeals ["DHA"] on October 29, 2014 via fax.
  4. With regard to the MA overpayments detailed in *Findings of Fact #2*, above, petitioner does not contest the determination that she has not repaid the incorrect payment or entered into, or complied with, an agreement for repayment.

### **DISCUSSION**

DHA can hear and decide an issue on the merits only if there is legal authority for it to do so. In legal language this is called *jurisdiction*. Wis. Admin. Code § HA 3.05(4)(a) (February 2013).

For a Hearing concerning an MA Order to Compel Payment of Liability DHA has jurisdiction only as follows: "The only issue at the hearing shall be the determination by the department that the person has not repaid the incorrect payment or entered into, or complied with, an agreement for repayment." Wis. Stat. § 49.497(1m)(a) (2013-14). Petitioner does not dispute any of those types of determinations. Therefore, petitioner's appeal must be dismissed. DHA does not have jurisdiction over the issues petitioner wishes to raise (primarily issues of hardship).

Finally, it is noted that these overpayments have been the subject of a prior Hearing Decision issued by DHA: See, DHA Case No. [REDACTED] (Wis. Div. Hearings and Appeals July 20, 2012) (DHS); and, DHA Case No. [REDACTED] (Wis. Div. Hearings and Appeals February 3, 2015) (DHS).

### **CONCLUSIONS OF LAW**

For the reasons discussed above, it was proper to issue an *Order To Compel Payment of Liability* against petitioner.

**NOW, THEREFORE, it is**

### **ORDERED**

That: the petition for review herein be and the same is hereby DISMISSED.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

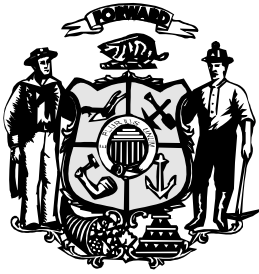
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 4th day of January, 2016

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\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals



## State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 4, 2016.

Dane County Department of Human Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability